

Battle Creek City Planning Commission

Staff report for the October 26, 2011 meeting

To: Planning Commissioners

From: Christine M. Hilton, AICP, Planning Supervisor
Planning and Community Development Department

Subject: Petition S-03-11, a Special Use Permit request for 652 Capital Avenue, N.E., Parcel #4990-00-040-0

Summary

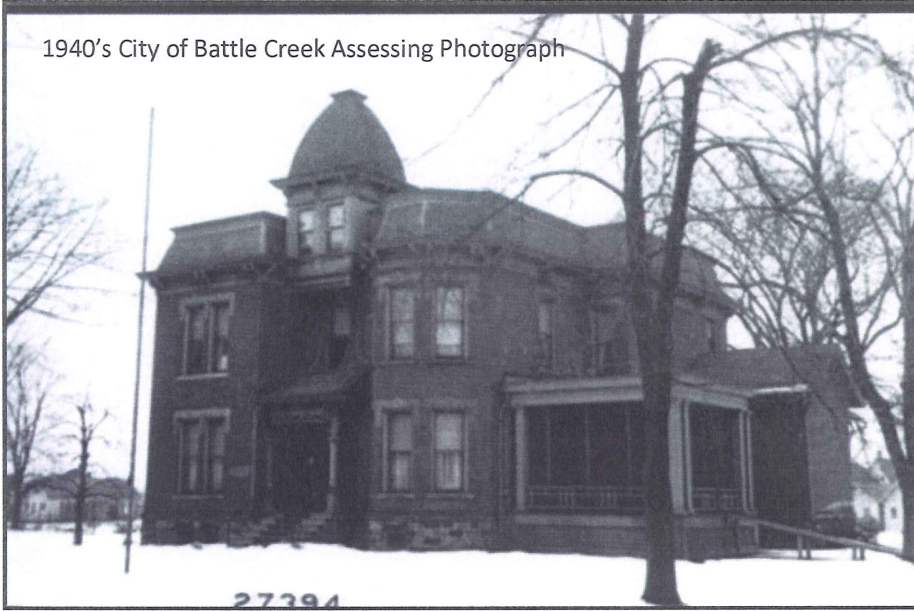
A petition from Mary Frisby, representing the Area Agency on Aging, requesting a Special Use Permit to allow for an Adult Foster Care Large Group Facility at 652 Capital Avenue, N.E., Parcel # 4990-00-040-0, which is zoned "R-3A Multiple Family Residential District" as permitted under the Planning and Zoning Code, Chapter 1290, Sec. 1290.01(b)(7).

Background/Property Information

The subject site is located on the south side of Capital Avenue N.E., between Magnolia Avenue and Evans Street, less than one-quarter mile south of Emmett Street. The parcel is 2.88 acres in size with 435' of frontage on Capital Avenue N.E.



1940's City of Battle Creek Assessing Photograph



The earliest building permit on record, from 1923, indicates at that time the structure contained multiple dwelling units. A 1927 building permit for an open porch, as well as subsequent building permits, indicate the use of the structure as housing for senior women. There are multiple other building permits on record showing additions to the original structure, the most significant addition on the east having been constructed in early 1990.

To date, the structure is 12,695 s.f. in size, and contains multiple independent bedrooms each with a half bath and a number of community rooms including the kitchen, dining room, sitting rooms, and full bathrooms. This current configuration of this structure essentially defines it as a single family home, which due to its size is extremely unlikely, or a boarding/rooming house, where individual rooms are rented out.

While building permits indicate that the facility has provided housing for senior women since at least the 1920's, due to the nature of the services being provided and the capacity the State of Michigan only required a "Home For The Aged" license from 1984 until 1994 when the facilities capacity increased. To that end, the facility was most recently registered as a rental property through the City.

The facility closed in the fall of 2010 due to decrease in residency.





Surrounding Land Uses / Zoning

This section of the Capital N.E. is zoned R-3A Multi-Family Residential, and the majority of structures along this corridor were constructed for residential purposes. Most of these remain residential in nature, though there are a few that were converted into commercial businesses.

North and south of Capital N.E is zoned R-1C Single Family Residential. Adjacent housing was primarily constructed in the early 19th century. Today most of the housing stock is owner-occupied and it continues to be a relatively well maintained neighborhood.



Proposed Scope of Project

The Area Agency on Aging (AAA) is seeking a special use permit for the operation of an Adult Foster Care Facility. The current property owners, The Emily Andrus Home Association, will continue to own the property, and allow the AAA to manage and operate the adult foster care facility.

Foster care facilities are regulated by the Michigan Department of Human Services and defined as “the provision of supervision, personal care, and protection in addition to room and board for 24 hours a day, 5 or more days a week, and for 2 or more consecutive weeks for compensation.” An adult foster care facility is further defined as “a governmental or nongovernmental establishment that provides foster care to adults. It includes facilities and foster care family homes for adults (18 or over) that are aged, mentally ill, emotionally disturbed, developmentally disabled, or physically handicapped who require supervision on an ongoing basis but who do not require continuous nursing care.” The Adult Foster Care license has specific regulations that the provider must adhere to, and are regulated, monitored, and enforced by the State of Michigan.

As previously mentioned, the facility historically provided on-site housing for senior women. Residents were linked to services that were primarily offered off-site, and this, combined with the number of residents, did not qualify the use under State guidelines in existence at that time.

The petitioners have submitted their application to the State of Michigan for a Large Group Home license, which would allow for an approved capacity for at least thirteen, but not more than twenty adults clients. In accordance with State guidelines, the targeted population includes senior citizens and disabled individuals.

Applicable Ordinance Provisions

As previously stated, the zoning of this property is R-3A Multi-Family Residential. In this zoning district single and multiple dwelling units and rooming or boarding houses with not more than four non-transient roomers or boarders are permitted by right and require no additional zoning review. For this zoning district, there are no density standard requirements that dictate the number of allowable dwelling units based on parcel or structure size, and therefore, this structure would be able to be divided into numerous apartments.

In regards to the request for an adult foster care facility, the Michigan Zoning Enabling Act of 2006 specifically states that state licensed residential facilities, which is defined as those providing residency and services to six or fewer residents, shall be considered a residential use of property for the purposes of zoning and permitted use in all residential zones. The statute further states that they shall not be subject to a special use or conditional use permit or any other procedure different from those required for other dwellings of similar density in the same zoning district.

Large Group foster care facilities, those providing residency and services from thirteen to twenty persons are subject to local zoning control. The City of Battle Creek Zoning Ordinance, Chapter 1290 Special Land Uses, specifically 1290.01(b)(7) allows for “*State licensed residential facilities for more than 6 residents, community residential facilities or group homes*”.

Public Hearing and Notice Requirements

As required by the Zoning Enabling Act of 2006, as amended, a public hearing notice was published in the Battle Creek Enquirer on September 20, 2011 and notices of the public hearing were also sent by regular mail on October 3, 2011 to 126 owners and occupants of properties located within 300 feet of the subject parcel. To date, the Planning Department has not received any questions or comments relative to this request.

Neighborhood Outreach

The petitioner has been in contact with the chair for the Neighborhood Planning Council #4, and their request for a special use permit will be discussed at their October meeting.

Basis For Determination

As a special use, the Planning Commission is charged with reviewing each Special Use Permit request to determine any effects the proposed use would have on the Master Plan as well as on the character and development of the neighborhood. The ordinance and enabling legislation allows the Planning Commission and the City Commission to impose any conditions upon the request that would ensure the general objectives of the zoning ordinance are met and to preserve property values in the neighborhood.

The request shall be reviewed using the following standards listed in Chapter 1290.04 Basis for Determination (for Special Use Permits):

- (a) The use will be harmonious with and in accordance with the general objectives of the Master Plan.
- (b) The use will be designed, constructed, operated and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and will not change the essential character of the neighborhood.
- (c) The use will not be hazardous or disturbing to existing or future neighboring uses.
- (d) The use will be a substantial improvement to property in the immediate vicinity and to the community as a whole.
- (e) The use will be adequately served by essential public facilities and services, such as streets, highways, police and fire protection, drainage, refuse disposal and schools, or the persons or agencies responsible for the development shall be able to adequately provide such services.
- (f) The use will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community.
- (g) The use will not create activities, processes, materials, equipment or conditions of operation that will be detrimental to any person, property or the general welfare by reason of an excessive generation of traffic, noise, smoke, fumes, glare, vibrations or odors.

- (h) The use will be consistent with the intent and purpose of this Zoning Code.

Analysis and Recommendation

Staff has reviewed the application and finds that it meets the requirements for submittal and is considered complete. Staff further finds the request consistent with the general standards listed in 1290.04, as outlined herein:

- (a) The use of this structure as a Adult Foster Care Large Group Home will be harmonious with and in accordance with the general objectives of the City of Battle Creek Master Plan as a vision of the plan (pg. 3-3) holds that accommodating a diversity of people and lifestyles is critical to the long term vibrancy and strength of the city, and that a variety of housing choices and living environments would strengthen the city over time. Additionally, the plan calls for well coordinated, high quality mental and physical health services be available to everyone (pg. 3-4).

The use of this structure as an Adult Foster Care Large Group Home will allow for the occupancy, use, and continued maintenance of this structure which is consistent with the master plan that encourages the coordination between the City and non-profits, developers, and property owners to stabilize housing conditions, and promote housing reinvestment and redevelopment to improve neighborhoods and also provide for diverse living opportunities (pg. 4-12). The plan targets this specific neighborhood for neighborhood revitalization activities including promoting housing rehabilitation (Figure 5-6, pg. 5-14).

- (b) The proposed use will be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and will not change the essential character of the neighborhood as the proposed use maintains the original residential use of the property, and is in the same nature as the historical use of the property. Additionally, the structure will be occupied by residents as part of an organized cooperative effort, as opposed to occupied by individuals that have no common thread with each other.

- (c) The use will not be hazardous or disturbing to existing or future neighboring uses as the proposed use is compatible with surrounding zoning and residential land uses. Furthermore, the neighborhood is in close proximity to non-residential offices/services that are complementary to the proposed use of the property. Additionally, due to the size of this building, the permitted uses in the R-3A Multiple Family zoning district could be more intrusive and potentially detrimental to the neighborhood.

- (d) The use will be a substantial improvement to property in the immediate vicinity and to the community as a whole as an existing vacant structure that will become occupied and improvements made to the structure that are necessary to maintain requirements of State licensing.

- (e) The use will be adequately served by essential public facilities and services in that public utilities already exist and no additional needs are required for this use.

- (f) There will be no City expenses associated with the maintenance and improvements to the building, and therefore, the use will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community.

(g) Because of the residential nature of the use there will be no activities, processes, materials, equipment or conditions of operation that will be detrimental to any person, property or the general welfare by reason of an excessive generation of traffic, noise, smoke, fumes, glare, vibrations or odors. Any noise associated with the use will be the result of typical activities found in a residential neighborhood.

(h) The use will be consistent with the intent and purpose of this Zoning Code in that the facility will be subject to compliance with all relevant sections of the zoning ordinance and codified ordinances, including noise, noxious vegetation, and property maintenance. Additionally, it will be required to be in compliance with all State licensing/certificate regulations concerning the proposed use.

Therefore, as the request meets the general standards listed in Chapter 1290.04 as outlined above, planning staff recommends that the Planning Commission recommend to the City Commission approval of Special Use Permit Petition S-03-11 that would allow an Adult Foster Care Large Group Home, on Parcel #4990-00-040-0 with the following conditions:

Project Specific Conditions:

1. All necessary approvals and any required permits shall be obtained from the appropriate agencies, including but not limited to the State of Michigan, Department of Public Works, and Inspections Department prior to Certificate of Occupancy.
2. The approval of the special use permit is based upon the contents of the submitted application, including but not limited to the nature of the facility being an adult foster care facility with a maximum capacity of twenty individuals. Any future proposed change must be reviewed with the Planning Department to ensure consistency with the approved special use permit, and may be subject to approval of a revision of the special use permit by the Planning Commission and City Commission.

Administrative Conditions:

3. Pursuant to Chapter 1232.01 (a), no change in the use or occupancy of land or in the use or occupancy of an existing building shall be made, nor shall any new building be occupied for any purpose, until a certificate of occupancy has been issued by the Zoning Administrator or his or her agent. Such a certificate shall state that the new occupancy complies with Building and Zoning Codes.
4. Pursuant to Chapter 1290.02 (e), certificates of occupancy for special uses shall be valid for a period established by the City Commission or as long as the use is established and maintained in conformity with the plans submitted and approved. Occupancy permits shall expire after one year if the use is not under construction or maintained. For good cause shown and upon written application, the Planning Commission may extend a special use permit for six months.

The Planning Commission can add additional conditions to those listed above in the staff recommendation. The Planning Commission may also upon deliberation, choose an alternative action from the following alternatives:

- A1: Postpone the project for specific reasons, with agreement from the applicant;
- A2. Articulate revised rationale of the general standards and/or conditions to recommend to the City Commission Approval OR Denial of the subject application.

Attachments

The following information is attached and made part of this Staff report.

1. Special Use Permit petition Form and Supplemental Information (Petition #S-03-11)

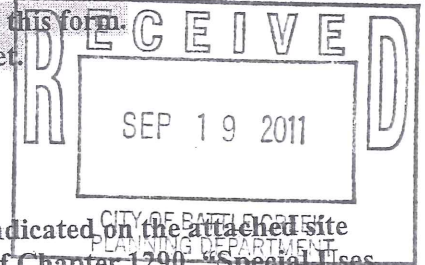
PETITION FOR A SPECIAL USE PERMIT



City of Battle Creek, Michigan Department of Planning and Community Development

Petition No. _____

Please read instruction on reverse before completing this form.
If additional space is required, attach a separate sheet.



The City Commission of the City of Battle Creek, Michigan

Honorable Mayor and City Commissioners:

I / We, the undersigned owner(s) of the property described below and indicated on the attached site plan, do hereby petition for a Special Use Permit under the provisions of Chapter 1290, "Special Uses and Land Development", of the Planning and Zoning Code of the City of Battle Creek, to permit this property to be used exclusively as indicated below.

Legal Description of Property: See Attached description
FOR PROPERTY Located at: 652 CAPITAL AVE N.E. Parcel #
4990 00-040-0

Present Use of Property:

100%

Proposed Use of Property:

Large Group Adult Foster Care home

Reasons why petitioner feels that a Special Use Permit should be granted:

This home has never been licensed in the past as an
Adult foster care home and will be providing services and
care to the residents.

Present Zoning Classification: R 3A Multi-Family Residential District.

Property Owner(s) _____ or Agent ☒ (Check one)

Name Mary J. Frisby

Address 200 E. Michigan St. 201

Telephone 269 441 0900 Fax 269 441 0963

Signature Mary J. Frisby

Name _____

Address _____

Telephone _____

Fax _____

Signature _____

FOR OFFICE USE ONLY

Date Petition Received: _____

Petition Fee Received: _____

Received By: _____

Planning Commission Recommendation:

Approve _____ Deny _____ Date _____

City Commission Action:

Approve _____ Deny _____ Date _____

Resolution No. _____

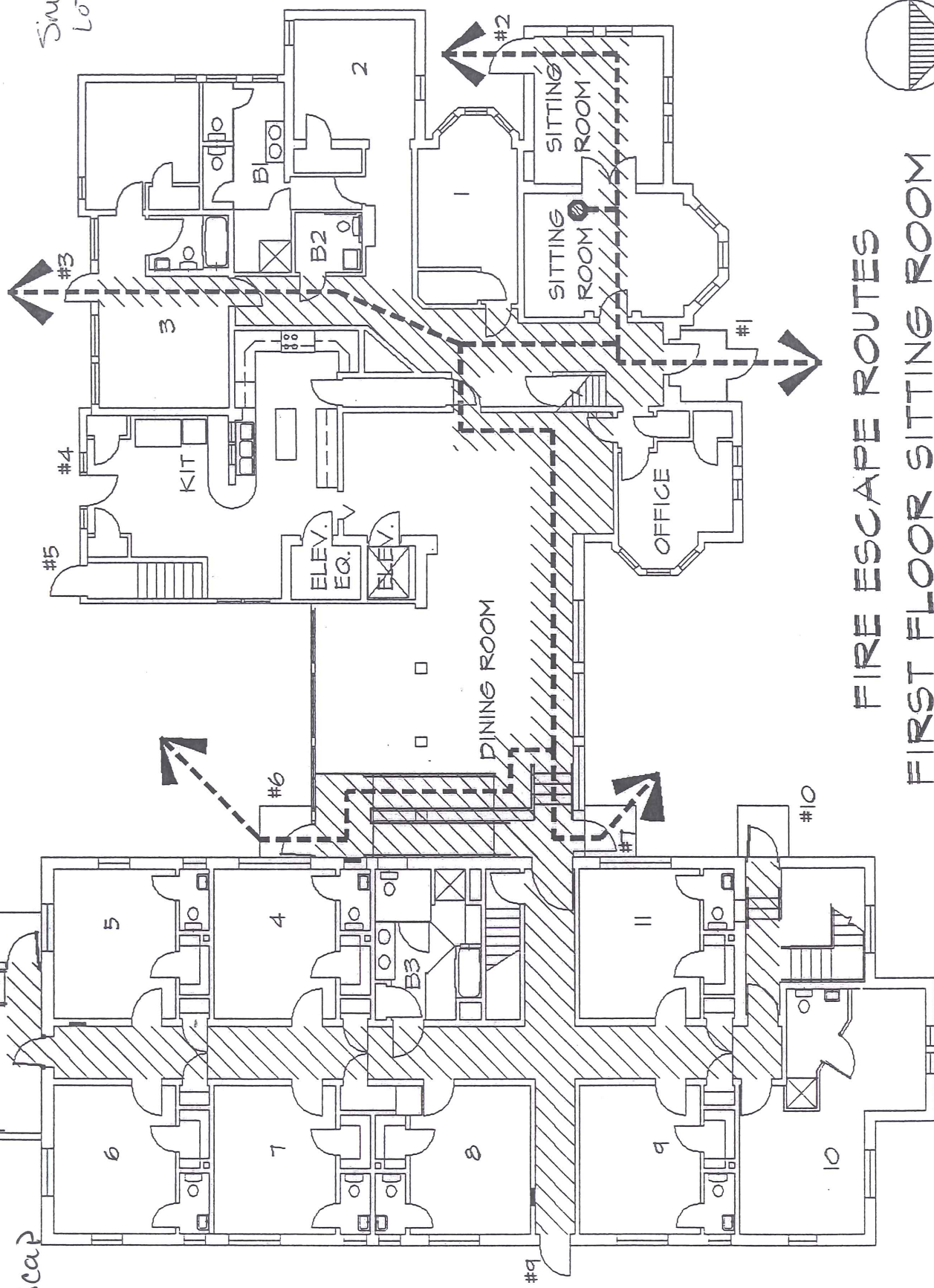
Legal Description of Property:

Beginning in the center of the highway leading from Battle Creek to Verona (now Maple Street) and at the Northerly corner of land deeded by James Cashmore to Edward Piper by deed recorded in the office of the Register of Deeds of said County of Calhoun in Liber 105 of Deeds, on page 570, the same being on a straight continuation of the Easterly line of Magnolia Avenue,, as shown on the recorded plat of "Maplewood Park"; thence South twenty eight and one-half ($28 \frac{1}{2}$) degrees East along Easterly line of said Magnolia Avenue three (3) chains nineteen (19) links to Southerly line of land deeded by Piper to Cashmore by deed recorded in the said Register of Deeds office in Liber 95 of Deeds, on page 136, the same being the North line of "Maplewood Park"; thence East on South line of said Cashmore's land and parallel with the East and West quarter line of Section Five (5) Town Two (2) South Range Seven (7) West, the same being on the North line of said "Maplewood Park", four (4) chains, seventy two and one-half ($72 \frac{1}{2}$) links; thence North twenty six and one-half ($26 \frac{1}{2}$) degrees West parallel with first line six (6) chains forty (40) links to center of said Highway; thence Southwesterly in Highway four (4) chains thirty five and one-half ($35 \frac{1}{2}$) links to place of beginning.

Large Parking
LOT

10
1 Handicap

Small parking
LOT 4



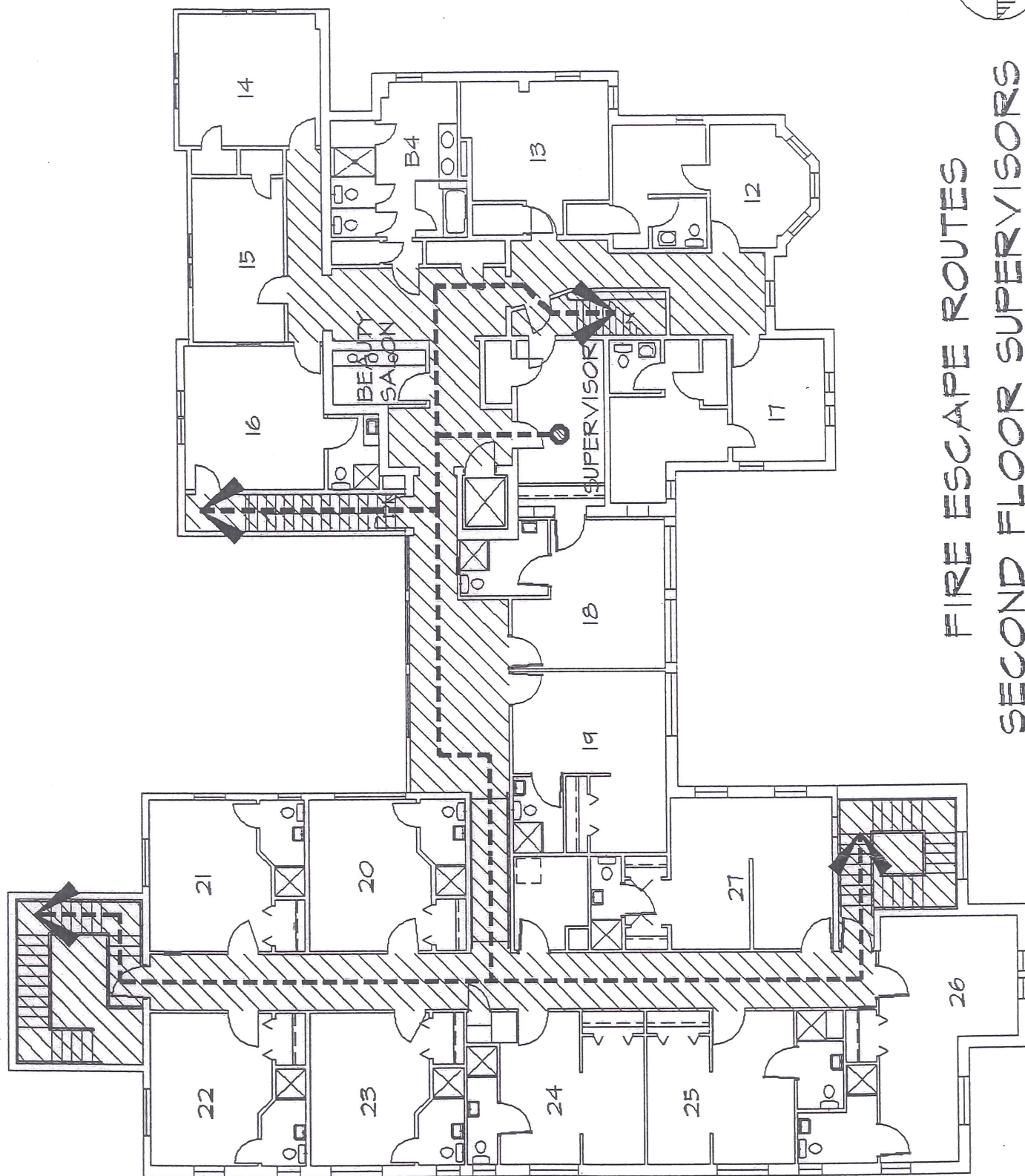
FIRE ESCAPE ROUTES
FIRST FLOOR SITTING ROOM
EMILY ANDRUS RESIDENCE





NORTH

FIRE ESCAPE ROUTES SECOND FLOOR SUPERVISORS EMILY ANDRUS RESIDENCE



FAX

TO:	Christine	FROM:	Mary Frisby
FAX:	966-1571	FAX:	441-0963
PHONE:		PHONE:	441-0906
SUBJECT:	AFC Licensing of Emily Andrus	DATE:	September 21, 2011

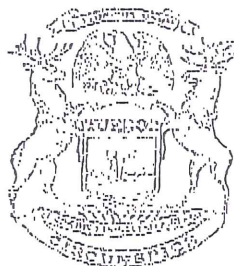
COMMENTS: Here is the licensing verification in 1985. They were licensed until they added on the new section taking them to 27 beds. This made them a congregate site with services hired through individuals and no licensing was required after 1994. Please let me know if this changes our requirements for the "Special Use Permit" and the \$600.00 we paid.

Thanks

Mary

STATE OF MICHIGAN
DEPARTMENT OF PUBLIC HEALTH

CERTIFICATE OF LICENSURE



This certificate is evidence of the fact that a license has been issued to this health facility or agency. If indicated below a license has also been issued to this health facility or agency to operate a food service establishment. These licenses have been issued pursuant to the provisions of Sections 12904, 20132 (3) and 20142 of the Public Health Code, Public Act No. 368 of 1978, as amended, being Sections 333.1101 to 333.25211 of the Michigan Compiled Laws, as amended, and are subject to limitation, suspension, or revocation by the Department of Public Health for any violation of the Code or the rules promulgated by its authority.

LICENSEE Emily Andrus Home Association

FACILITY NAME EMILY ANDRUS HOME 13-201

ADDRESS 652 Capital Avenue, N.E., Battle Creek

Calhoun County

TYPE OF LICENSE AND CONDITIONS OF ISSUANCE, IF ANY:

Home For The Aged

☐ THIS CERTIFICATE EVIDENCES LICENSURE OF FOOD SERVICE ESTABLISHMENTS FOR USE BY THE GENERAL PUBLIC.

NUMBER OF BEDS AUTHORIZED 19 EXPIRATION DATE June 30, 1985

Issued at the
Michigan Department of Public Health
Lansing, Michigan

LICENSE NUMBER No 3844

on July 1, 1984

This certificate remains the property of the Department of Public Health, is nontransferable, and must be conspicuously displayed by the licensee in a public area.

**EMILY ANDRUS SENIOR RESIDENCE
BOARD MEETING
August 30, 2011**

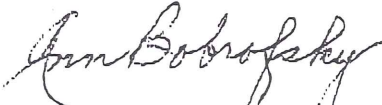
The following motion was made by Max Crandell, seconded by Ed Oesterreich:

The Emily Andrus Senior Residence Board of Directors hereby appoints Mary Frisby to act on behalf of the Association as the Administrator and Licensee for the purpose of submission of the Adult Foster Care Licensing Application for the State of Michigan. We understand that this Administrative role will not create any additional financial responsibility for the current operations of Emily Andrus. To accommodate this role, Jeanne Booher's title will be changed to Manager. Jeanne's salary and responsibilities will remain consistent with the actions taken at the August 15, 2011 Board meeting.

These actions are being taken in a good faith effort moving toward the likely transition of the Emily Andrus Senior Residence to a licensed large group home.

Motion was carried unanimously.

Respectfully submitted,



Ann Bobrofsky, Secretary